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November 5, 2007

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By

*Lynne M. Millot*  
Lynne Millot



PATENT

Customer No. 22,852

Attorney Docket No. 06843.0052-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Sanjay D. KHARE

) Group Art Unit: 1644

Application No.: 10/748,112

) Examiner: OUSPENSKI, Ilia I.

Filed: December 29, 2003

For: COMBINATION THERAPY WITH  
CO-STIMULATORY FACTORS

) Confirmation No. 1751

**MAIL STOP AMENDMENT**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

**RESPONSE TO OFFICE ACTION (RESTRICTION REQUIREMENT)**

Applicant now responds to the Office Action (Restriction Requirement) mailed July 5, 2007 ("the Third Restriction Requirement"). The period for reply has been extended three months by the Petition for Three Month Extension of Time and required fee filed herewith. The Examiner required restriction to one of eighteen different groups.

Applicant elects Group I, claims 113 and 116 to 118, with traverse.

In the Third Restriction Requirement, the Examiner vacated the Restriction Requirement mailed on March 1, 2007 ("the Second Restriction Requirement"), and acknowledged that claims 104, 110, and 119 to 121 link Groups I to XVIII. See Third Restriction Requirement at pages 3 and 6. The Examiner indicated that she made the decision to vacate the Second Restriction Requirement in view of the Response to the

Second Restriction Requirement filed by the applicant on June 1, 2007 ("the Second Response"). See *id.* at pages 2-3.

However, the applicant also made similar arguments in response to the first Restriction Requirement, which was mailed September 26, 2006 ("the First Restriction Requirement"). In the Response filed on December 26, 2006 ("the First Response"), applicant traversed the First Restriction Requirement on grounds similar to the traversal of the Second Restriction Requirement, namely that applicant has the right to have the full scope of the elected independent claim examined.

Claims 105 to 121 all ultimately depend from claim 104. For the reasons already discussed in the First Response, the Examiner cannot force the applicant to amend the claims by requiring restriction to particular species and refusing to examine a generic claim. If the Examiner chooses to subdivide dependent claims 105 to 121 into different restriction groups, then at least claim 104 should link any such groups. Accordingly, applicant asserts that the full scope of claims 104 to 121 should be examined if the Examiner finds the elected group allowable.

#### Species Election

The Examiner also required election of a species of TNF $\alpha$  inhibitor selected from etanercept, infliximab, or D2E7. See Third Restriction Requirement at page 8. Applicant elects etanercept. Claims 104, 110, 113 and 116 to 121 read on the elected species.

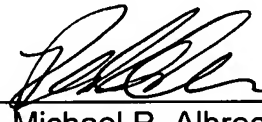
In the event the Examiner feels that an interview would further prosecution,  
applicant requests that the Examiner contact the undersigned at (650) 849-6658.

Please grant any extensions of time required to enter this Amendment and  
Response, and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: November 5, 2007

By:  Reg No 47,057  
for Michael R. Albrecht  
Reg. No. 54,956  
Customer No. 22,852